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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,139	11/27/2001	Klemens Kohlgruber	Bayer 10,227-WCG	9945

7590

06/05/2003

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EXAMINER

MANOHARAN, VIRGINIA

ART UNIT

PAPER NUMBER

1764

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,139

Applicant(s)

KOHLGRUBER ET AL.

Examiner

Virginia Manoharan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9 6) ☐ Other:

Upon reconsideration, the restriction requirement dated February 28, 2003, paper # 11 has been withdrawn.

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

The abstract of the disclosure is objected to because of the inclusion of legal phraseology often used in patent claims such as "comprising" in line 4; "means ... for" in line 4 and "means" in line 6. Correction is required. See MPEP § 608.01(b).

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of claims 20-22 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors e.g., typographical, grammar, idiomatic, syntax and etc. Applicants' cooperations are requested in correcting any errors of which applicants may become aware in the specification.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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- a. In claim 1, line 4, "the the" (first occurrence) is redundant.
- b. The inconsistent used of terminologies in the claim is improper. For example s:
 - 1) "viscosity liquids "in claim 1, lines 1-2 (plural) as opposed to "the high viscosity liquid" in lines 4-5 and the last line (singular); and
 - 2) "... a feed distributor" in claim 1 as opposed to" the feed distributor element" in claim 3.
- c. Regarding claim 7, the term " like" as in "basket-like lattice" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by the term "like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).
- d. In claim 5 "orifices" is misspelled.
- e. The terms "or more" e.g., in claims 7-8 and 16 should be - at least one - to avoid the alternative "or"
- f. Claim 17 should be recited in independent form for being indefinite because of the following reasons:
 - 1) Claim 17 does not add further structure to the apparatus of claim 1; and
 - 2) The preamble of claim 17 recites "A method" which is at odds with the "Apparatus" of claim 1, the claim from which it depends.
- g. The phrase "adapted to" in claim 22 should be deleted as it fails to ascertain whether the heat transfer medium di in fact flow through the jacket of the heat exchanger.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over De 2243 024 in view of Melvill (2,490,080).

The De '024 discloses substantially the apparatus as claimed. That is, the De '024 discloses an "Apparatus for carrying out mass transfer processes with high-viscosity liquids, comprising at least one vertically disposed vessel having a feed distributor for the liquid to be treated, an outlet for volatile components and an outlet for the treated liquid, the the (sic) feed distributor having a multiplicity of orifices for subdividing the high-viscosity liquid to be treated into a multiplicity of individual streams" as broadly claimed in claim 1; and the method comprising carrying out the boiling down and devolatilizing, or the reactions ..." as broadly claimed in claim 17. The apparatus and method of De '024 differs from the claimed invention in that claim 1, for example, recites in the "wherein" clause that an "... essentially vertically arranged wire loops are disposed in the vicinity of the orifices, along which wire loops the high-viscosity liquid runs off under the action of gravity".

However, said difference is deemed not to constitute a patentable distinction because while not positively recited, obviously the threads of De '024 is deemed to correspond to the claimed "wire loops".

Nonetheless, Melvill discloses and shows e.g., in Fig. 1, the used of a vertical wire loops (55) in a contacting apparatus. To substitute for the thread of De '024, the loops of Melvill

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would have been obvious to one of ordinary skill in the art so as to obtain the advantages taught in the Melvill's reference, e.g., at col. 6, lines 63-66. That is, so as to prevent the horizontal and vertical channeling of the liquid and assist in the uniform distribution of the liquid across the full width of the sheets.

Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over De '024 in view of Melvill as applied to claims 1-10 and 13-19 above, and further in view of Kimoto et al (3,694,535) or Miller et al (4,130,527).

Kimoto et al or Miller et al recites an apparatus wherein the vessel is provided with a heat exchanger jacket accommodate the flow of a heat transfer medium therethrough. See Figs 2 and 3 of Miller; and at col. 2, lines 51-52 of Kimoto et al to incorporate the structure of Miller or Kimoto to the apparatus of De '024. It would have been obvious to one of ordinary skill in the art to incorporate the structure taught by Miller or Kimoto to the apparatus of De'024 in order to achieve the desired degree of heating as taught e.g., at col. 3, lines 65-66 of Miller.

Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia Manoharan whose telephone number is 703-308-3844. The examiner can normally be reached on Tuesday-Friday from 7:30 am to 6:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 703-308-4311. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9462 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

V. Manoharan/mn
June 18, 2003


VIRGINIA MANOHARAN
PRIMARY EXAMINER
ART UNIT 128 *1764*
6/18/03